

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

October 9, 2014

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present - Mike Owens, Chair; Mike Cravens; Frank Penn; Carolyn Plumlee; Bill Wilson; Will Berkley; David Drake and Patrick Brewer. Karen Mundy; Joseph Smith; and Carolyn Richardson were absent.

Planning staff members present – Chris King; Bill Sallee; Barbara Rackers; Tom Martin; Cheryl Gallt; Kelly Hunter; Dave Jarman and Denice Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; Tim Queary, Department of Environmental Policy; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services, and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – The Chair reminded the Commission members that the minutes of the August 28, 2014, meetings were previously emailed to the Commission for their review; and if there were no changes, those minutes were ready to be considered at that time.

Action - A motion was made by Mr. Cravens, seconded by Ms. Plumlee and carried 8-0 (Mundy, Richardson and Smith absent) to approve the minutes of the August 28, 2014, meeting.

- III. **POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

- a. PLAN 2014-58F: DALLAS PLAZA, UNIT 1, BLOCK A, LOT 1 (PATCHEN PLACE SUBDIVISION, UNIT 1) (AMD) (11/2/14)* - located at 2800 Richmond Road. (Council District 5) **(Midwest Engineering)**

Note: The Planning Commission postponed this item at their September 11, 2014, meeting. The purpose of this amendment is to subdivide one lot into three lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of "Patchen Place Subdivision, Unit 1" in title block.
9. Depict adjacent property with dashed lines.
10. Addition of adjacent property information.
11. Addition of listing of the private utility companies.
12. Addition of street frontage in site statistics for Richmond Road and Gribbin Drive.
13. Denote direction of street cross-sections.
14. Addition of street cross-section for access easement.

Representation – Richard Murphy, attorney, was present representing the applicant, and requested an indefinite postponement of PLAN 2014-58F: DALLAS PLAZA, UNIT 1, BLOCK A, LOT 1 (PATCHEN PLACE SUBDIVISION, UNIT 1) (AMD).

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Wilson, seconded by Ms. Plumlee and carried 8-0 (Mundy, Richardson and Smith absent) to indefinitely postpone PLAN 2014-58F: DALLAS PLAZA, UNIT 1, BLOCK A, LOT 1 (PATCHEN PLACE SUBDIVISION, UNIT 1) (AMD).

- b. PLAN 2014-49F: PINEHURST SUBDIVISION, LOT 33 (AMD) (10/5/14)* - located at 153 Beverly Avenue. (Council District 6) **(Foster-Roland)**

Note: The Planning Commission continued this item from the August 14, 2014, meeting; and further consideration was postponed at their August 28, 2014, and September 11, 2014, meetings. The purpose of this amendment is to subdivide one lot into two lots.

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the sanitary sewer connection and the adequacy of the existing 50' access easement.

* - Denotes date by which Commission must either approve or disapprove request.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of tree protection information.
9. Addition of the purpose of amendment note.
10. Increase font size for notes and certifications.
11. Addition of name and address of property owner and developer.
12. Addition of adjacent property information.
13. Identify adjacent property lines with dashed lines.
14. Addition of private access easement maintenance note.
15. Correct length of street (lot frontage) in site statistics.
16. Identify street trees required for each lot.
17. Resolve proposed widening on all street frontages or dedication of right-of-way.
18. Discuss access to property and adequacy of existing easement to provide public service.
19. Discuss sanitary sewer connection locations.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting to withdraw PLAN 2014-49F: PINEHURST SUBDIVISION, LOT 33 (AMD).

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for withdraw. There was no response.

Action - A motion was made by Mr. Penn, seconded by Mr. Cravens and carried 8-0 (Mundy, Richardson and Smith absent) to accept the withdraw of PLAN 2014-49F: PINEHURST SUBDIVISION, LOT 33 (AMD).

- c. PLAN 2014-70F: SAMS PROPERTY & LARKIN PROPERTY (KENTUCKY EAGLE, LOT 1) (AMD) (12/1/14)* - located at 2640 and 2580 Spurr Road. (Council District 2) **(Stuart Spencer)**

Note: The purpose of this amendment is to subdivide one lot into two lots and reconfigure Lot 2.

The Subdivision Committee Recommended: Postponement. There are concerns with the street improvements and sanitary sewer connections.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas (Georgetown Aquifer).
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Remove man-made farm pond from plan face.
11. Discuss sanitary sewer service and OPSS.
12. Discuss street improvements to Spurr and Greendale Roads and/or access restrictions.
13. Discuss Lot 1-B septic system and drain field relative to Lot 1-A.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting postponement of PLAN 2014-70F: SAMS PROPERTY & LARKIN PROPERTY (KENTUCKY EAGLE, LOT 1) (AMD) to the November 13, 2014, meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Plumlee, seconded by Mr. Penn and carried 8-0 (Mundy, Richardson and Smith absent) to postpone PLAN 2014-70F: SAMS PROPERTY & LARKIN PROPERTY (KENTUCKY EAGLE, LOT 1) (AMD) to the November 13, 2014, Planning Commission meeting.

* - Denotes date by which Commission must either approve or disapprove request.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, October 2, 2014, at 8:30 a.m. The meeting was attended by Commission members: Will Berkley, Joe Smith, Frank Penn and Mike Owens. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Dave Jarman and Kelly Hunter, as well as Greg Lengal, Division of Fire and Emergency Services and Greg Jones, Division of Police. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

A. CONSENT AGENDA - NO DISCUSSION ITEMS – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
 - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
 - (3) no discussion of the item is desired by the Commission; and
 - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
 - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
 - (2) from the Planning Commission,
 - (3) from the audience, and
 - (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of all of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

The Chair noted that PLAN 2014-58F: DALLAS PLAZA, UNIT 1, BLOCK A, LOT 1 (PATCHEN PLACE SUBDIVISION, UNIT 1) (AMD) had been previously postponed and removed from the Consent Agenda.

1. PLAN 2014-71F: PROVIDENCE PLACE, TRACT 3 (AMD) (12/1/14)* - located at 2200 Newtown Pike.
(Council District 12) **(Vision Engineering)**

Note: The purpose of this amendment is to subdivide one lot into two lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection area(s) and required street tree information.
 6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 8. Addition of exaction notes to the approval of the Division of Planning.
2. PLAN 2014-72F: DEERFIELD SHOPPING CENTER (OLLIE'S TROLLEY) (AMD) (12/1/14)* - located at 205 Southland Drive. (Council District 3) **(Vision Engineering)**

Note: The purpose of this amendment is to remove the 50' building line along the western property line.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.

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8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 9. Addition of survey monument locations, and description per Art. 5-4(d)(6).
 10. Correct engineer's certification per Art. 5-4 (h)(3).
 11. Denote B-1 building line adjacent to Plaza Drive right-of-way.
 12. Addition of Plaza Drive cross-section.
 13. Correct purpose of amendment note to "reconfigure lots."
3. DP 2014-81: EAST END SUBDIVISION, LOT 3 (AMD) (12/1/14)* - located at 539 and 541 Darby Creek Road.
(Council District 7) **(Banks Engineering)**

Note: The purpose of this amendment is to develop the remaining portion of the property.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 7. Division of Waste Management's approval of refuse collection locations.
 8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 9. Remove copyright note.
 10. Addition of record plat designation (H-395 and 449)
 11. Remove gray scale shade and make property boundaries darker.
 12. Dimension driveway entrance and sidewalks.
 13. Correct note #20 "Chapter 16, Code of Ordinances."
 14. Addition of construction access.
 15. Addition of zoning on adjacent property.
 16. Denote height of building in feet.
 17. Addition of street frontage in site statistics (Todds Road, Darby Creek Road and Man o' War Boulevard).
 18. Correct Planning Commission certification.
 19. Clarify Lot 3C acreage.
 20. Correct note #22.
 21. Resolve tree protection areas and existing tree canopy.
4. DP 2007-89: MASTERSON STATION CENTER – CITATION VILLAGE (12/31/14)* - located at 2601 and 2679 Leestown Road. (Council District 2) **(Hall – Harmon Engineers)**

Note: The purpose of this plan is to depict the development of Phase 1 outlots (parcels 1-4). The Planning Commission approved this plan at their August 9, 2007 meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree preservation plan.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Greenspace Planner's approval of the treatment of greenways.
7. Environmental Planner's approval of environmentally sensitive areas.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Division of Solid Waste's approval of refuse collection.
10. Approval of street names and addresses per e911 staff.
11. Add reciprocal parking and access note.
12. Clarify parking statistics.
13. Addition of notes from previous plan for Phase II area.
14. Denote: There shall be no development of Phase II without an approved amended final development plan.
15. Remove access from outlot 1 to Robinson Way.
16. Denote all existing and proposed easements.
17. Resolve stone walls along Leestown Road and the additional right-of-way requirements
18. Resolve 20' building line, utility easements and landscape buffer area

Note: This plan was certified on November 2, 2007; however, the timing restrictions under Art. 21-4(f)(1) have expired. The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to two conditions:

1. Addition of a second Commission's certification to this plan.

* - Denotes date by which Commission must either approve or disapprove request.

2. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
5. DP 2011-41: BLACKFORD PROPERTY, PHASE 1, UNIT 5 & PHASE 3 (AMD) (12/23/14)* - located on Blackford Parkway. (Council District 12) **(EA Partners)**

Note: The Planning Commission approved this plan at their June 23, 2011, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire's approval of emergency access and fire hydrant locations.
10. Provided the Planning Commission makes a finding that the plan is in compliance with the EAMP.
11. Resolve the details of the greenway connection at Lots 391 & 392.
12. Resolve tree preservation area conflict with the EAMP storm water plans (remove T.P.A).
13. Resolve the extent of the sinkhole (identify closed contour area).
14. Denote: No development of Lots 412-416 until Blackford Parkway is constructed.
15. Denote: No vehicular access to Walnut Grove Lane or Deer Haven Lane.

Note: This plan was certified on October 19, 2011. The applicant now requests approval of a one-year extension for the Preliminary Subdivision Plan portion of this plan.

The Subdivision Committee Recommended: **Approval of a one-year extension**, subject to the original conditions on today's agenda.

Mr. Sallee directed the Commission's attention to DP 2011-41: BLACKFORD PROPERTY, PHASE 1, UNIT 5 & PHASE 3 (AMD), and briefly explained that the Commission must make a finding for Article 4-4(d)(1) of the Land Subdivision Regulations, which states that "progress has been made in the physical construction of improvements" in order to grant the extension. He indicated that the staff had previously distributed copies of both this findings, just prior to today's hearing, for the Commission to review. He also noted that since DP 2011-41 is requesting an extension, the applicant was not required to post a sign on their property.

In conclusion, Mr. Sallee said that the items identified on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission, or the audience, in order to permit further discussion.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. Ms. Plumlee asked that PLAN 2014-71F: PROVIDENCE PLACE, TRACT 3 (AMD) be removed to permit further discussion by the Commission.

Action - A motion was made by Mr. Wilson, seconded by Mr. Brewer and carried 8-0 (Mundy, Richardson and Smith absent) to remove PLAN 2014-71F, AND approve the remaining items listed on the Consent Agenda, as recommended by the Subdivision Committee.

- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the meeting. The Chair will announce his/her decision at the outset of the hearing.

* - Denotes date by which Commission must either approve or disapprove request.

1. **PRELIMINARY SUBDIVISION PLAN**

- a. PLAN 2010-131P: HILLENMEYER PROPERTY & DWS PROPERTY (A PORTION OF) (AMD) (12/23/14)* - located at 2801 Sandersville Road, 803 Greendale Road and 2551 Leestown Road.
(Council District 2) (EA Partners)

Note: The Planning Commission originally approved this plan on April 24, 2011, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Urban Forester's approval of tree protection plan.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Kentucky Department of Transportation's approval of proposed access to Greendale Road.
9. Denote tree protection areas.
10. Clarify proposed tree protection restrictions within 50' of cemetery.
11. Provided the Planning Commission grants a waiver to Article 6-8(a) of the Land Subdivisions Regulations.
12. Resolve buildable area on lot 22.
13. Denote: Replacement of the topsoil, and add seed and straw to the areas affected by grading.

Note: This plan was certified on June 10, 2011; however, the timing restrictions of Article 4-4(d)(i) have expired. The applicant now requests reapproval of this plan.

The Subdivision Committee Recommended: **Reapproval**, subject to condition #11 and one additional condition.

14. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of PLAN 2010-131P: Hillenmeyer Property & DWS Property and said that this is a reapproval request for the amended preliminary subdivision plan for property located at 2801 Sandersville Road, 803 Greendale Road and 2551 Leestown Road. He then directed the Commission's attention to an aerial photograph of the area to orient them to the location of the subject property and the nearby street system, as well as to the existing uses in the general vicinity.

Mr. Martin said that the applicant is proposing to develop 223 single family lots, and out of those, 220 lots will be buildable and the remaining will be used for the proposed storm water detention basin. He then said that Sandersville Road will extend from Citation Boulevard, connecting with Greendale Road. He added that the subject property is zoned Planned Neighborhood Residential (R-3), with a small portion zoned Light Industrial (I-1).

Mr. Martin directed the Commission's attention toward the center of the existing stub of Sandersville Road and explained that there is an existing cemetery at this location that the applicant was not initially aware of. Upon finding this cemetery, the applicant conducted a study to delineate its boundaries, which also resulted in the need for a curved design for Sandersville Road. This type of road design did require the applicant to request two waivers for the geometrics of the road (to the horizontal curve requirements). He said that the Commission granted both waivers relating to the alignment of Sandersville Road – needed for the protection of the existing cemetery.

Mr. Martin said that the Subdivision Committee had recommended reapproval of the applicant's request, subject to condition #11 and one additional condition, as listed on today's agenda.

Representation – Rory Kahly, EA Partners, was present, representing the applicant. He said that they are in agreement with the staff's recommendations and requested reapproval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Brewer, seconded by Mr. Berkley to approve PLAN 2010-131P: HILLENMEYER PROPERTY & DWS PROPERTY (A PORTION OF) (AMD), as presented by the staff.

Discussion of Motion – The Chair asked if the motion on the floor was in accordance with the two listed conditions as noted on today's agenda. Mr. Brewer and Mr. Berkley indicated their agreement.

The Motion carried 8-0 (Mundy, Richardson and Smith absent).

2. **FINAL SUBDIVISION PLAN AND DEVELOPMENT PLANS**

Note: The next two items were heard simultaneously.

* - Denotes date by which Commission must either approve or disapprove request.

- a. PLAN 2014-71F: PROVIDENCE PLACE, TRACT 3 (AMD) (12/1/14)* - located at 2200 Newtown Pike.
(Council District 12) **(Vision Engineering)**

Note: The purpose of this amendment is to subdivide one lot into two lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of exaction notes to the approval of the Division of Planning.

- b. DP 2014-80: PROVIDENCE PLACE, TRACT 3, LOTS 5A & 5B (AMD) (12/1/14)* - located at 1201 Providence Place Parkway. (Council District 12) **(Vision Engineering)**

Note: The purpose of this amendment is to revise the development of Lot 5.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Provided the Planning Commission makes a finding that the development plan complies with the EAMP.
10. Denote exaction information to the approval of the Division of Planning.
11. Clarify that Lots 5A & 5B were not created by the Plat in Cabinet N, Slide 521.

Staff Presentation – Mr. Martin directed the Commission's attention to the renderings of the amended final record plat for Providence Place, Tract 3 and the amended development plan for Providence Place, Tract 3, Lots 5A & 5B, located at 2200 Newtown Pike and 1201 Providence Place Parkway. He directed the Commission's attention to the final record plat rendering to orient them to the location of the subject property. He said that the purpose of the plat amendment is to subdivide one lot into two lots. He then directed the Commission's attention to the development plan rendering to further orient them to the nearby street system. He indicated that the purpose of the revised development plan is to alter the development of Lot 5. He noted that Providence Place Parkway intersects with Mary Faye Place, for which the right-of-way has been dedicated, but the street not yet constructed. Mr. Martin said that the sole purpose of the final record plat is to subdivide the property. He then said that this will allow Lot 5A, which is approximately 2.90 acres, to be developed. He noted that Lot 5B is approximately 2.01 acres in size; and added that there is an existing access easement running across Lots 5A and 5B.

Mr. Martin said that the Subdivision Committee recommended approval of the final record plat, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of exaction notes to the approval of the Division of Planning.

Mr. Martin briefly explained that conditions #1 through #7 involve standard sign-off conditions from the different utilities and divisions of the LFUCG; and the remaining condition is a "cleanup" items that will be addressed prior to the plan being certified.

* - Denotes date by which Commission must either approve or disapprove request.

Mr. Martin directed the Commission's attention to the development plan rendering, and explained the applicant is proposing a new 5,200 sq. ft. building, with 39 proposed parking spaces, the majority of which will be located to the sides of the proposed building. There will be two access points leading into property off Providence Place Parkway. He then said that the applicant has also indicated that a portion of this property will be further developed under Phase 2 of the development.

Mr. Martin then said that the Subdivision Committee also recommended approval of the development plan, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Provided the Planning Commission makes a finding that the development plan complies with the EAMP.
10. Denote exaction information to the approval of the Division of Planning.
11. Clarify that Lots 5A & 5 B were not created by the Plat in Cabinet N, Slide 521.

Mr. Martin then briefly explained that conditions #1 through #8 involve standard sign-off conditions from the different utilities and divisions of the LFUCG; and the remaining condition, with the exception of condition #9, are "cleanup" items that will also be addressed prior to the plan being certified. He said that the staff had previously distributed the EAMP compliance report to the Commission for their review, and briefly explained that the Commission must make a finding that the development plan does comply with the provision of the EAMP. Mr. Martin said that the EAMP recommends Economic Development (ED) land uses for this property, and this new land use (professional office) is consistent with that recommendation.

Mr. Martin then said that there are many aspects of the Community Development Element that are taken into consideration, such as how the site is oriented to the street, the topography of the land, buildings, parking and so forth. In the staff's review this proposal does meet the majority of the EAMP requirements. However, the staff is concerned with the two access points proposed on Providence Place Parkway. He said that the spacing between the two nearest access point and Hackney Place is approximately 150 feet each. He said that this spacing does not comply with the EAMP recommendation for access to collector streets. He explained that the LFUCG Expansion Area Master Plan has three statements that speak directly to the need to control access to collector streets and boulevards, which are important to the Expansion Area's design and function:

- *In the Expansion Area, curb cuts should be limited along collector streets and should be controlled along arterial streets;*
- *One of the most important elements of community design is the character of the road network, which provides access to the regional transportation network;*
- *Access to the collector road network shall be controlled by existing or future community-wide standards for access to collector and local roads.*

Mr. Martin said that the applicant is proposing two curb cuts into the site and there will be 39 parking spaces in total that will be in the front and sides of the building. He then said that the EAMP does not recommend parking to be in the front, but the Zoning Ordinance for the ED land use does allow a limited amount of parking in the front. He said that the staff is agreeable to the small amount of parking in the front; however, they do not believe having two accesses onto Providence Place Parkway meets the design element of the EAMP.

Mr. Martin directed the Commission's attention to the staff exhibit, which is a Prototypical Illustrative of the Economic Development area in Expansion Area 3. He said that this type of design recommends one access point off Newtown Road into this property and only two intersections points on Providence Place Parkway, with a spacing of 400 feet. He said that access and spacing is a critical element to the EAMP and access on the Parkway along its curvature will not be permitted.

Mr. Martin then directed the Commission's attention to two previously approved final development plans for this area, and said that the access points being shown for the commercial area do align with Mary Faye Place and Hackney Place. This proposed development shows what the approved spacing for the parkway should be. He then said that the currently approved development plan proposes a 106,000 sq. ft. facility with 127 parking spaces for approximately 90 employees on Lot 5. He added that this proposal only had one access point onto Providence Place Parkway, across from Hackney Place.

Mr. Martin said that the staff would recommend the following changes to the final development plan to ensure greater compliance with the Community Design Element of the EAMP and maintain the spacing requirements:

- a. Consolidation of the two proposed access points into one access point or aligning the eastern most access point with Hackney Place per the currently approved final development plan.

Mr. Martin said that, as development occurs along Providence Place Parkway, the two accesses could start a precedent. That is not the intent of the EAMP as to for how its boulevards are to function.

Mr. Martin said that one of the three infrastructure elements in the EAMP is the Providence Place Parkway road improvement. He noted that this road has been approved, constructed and dedicated and will eventually connect Russell Cave Road to Newtown Pike. He then said that the second infrastructure improvement is the regional pump station that is required under the EAMP. However, this pump station has not been constructed. He said that the Division of Water Quality is still reviewing the appropriate location to construct the station, and as of now, the sanitary sewer pump station has been planned a few hundred feet northeast of the subject property. He added that the existing developments with in this area as well as any proposed developments will be utilizing the pump station near Stanton Way, until the regional pump station has been constructed.

Mr. Martin said that the staff believes that the Final Development Plan for Providence Place, Tract 3, Lot 5 is in compliance with the Future Land Use Element and is in substantial compliance with the Community Design Elements and the Infrastructure Element the Expansion Area Master Plan for the following reasons:

1. The use and proposed development meet the definition of the Economic Development land use category in the EAMP and the uses allowed in the ED zone.
2. Many principles of the EAMP, including the orientation of the buildings and the majority of the parking, and use of the natural topography, have been incorporated into the design of this ED development. The development plan is therefore in substantial agreement with the Community Design Element.
3. Although sanitary sewer service does not currently exist to the subject property, and the planned regional sanitary sewer pump station to the northwest of the subject property is in its design phase (as recommended by the EAMP). Sanitary Sewer Service is available to this property from existing lines to the south.

Mr. Martin then said that the staff would recommend the following changes to the final development plan in order to ensure greater compliance with the Community Design Element of the EAMP:

- a. Consolidation of the two proposed access points into one access point or aligning the eastern most access point with Hackney Place per the currently approved final development plan.

Planning Commission Questions - Mr. Penn asked if the rear portion (Phase 2) will be subdivided and developed. Mr. Martin said that the staff was informed that section will be a future development but the applicant is unsure of its land use. Mr. Penn then asked when the rear portion is developed where would the access be located. Mr. Martin said that should the rear portion be developed, another access on Providence Place Parkway could be a concern to the staff. He then said that, should the applicant want to have a rear access, then that location would need to be determined.

The Chair asked if the access to Providence Place Parkway was a staff concern, then why it wasn't discussed last week at the Subdivision Committee meeting. Mr. Martin said that the EAMP report had not been finalized at that time. The Chair indicated that it would have been beneficial for the Subdivision Committee to know about this concern at that time. The Chair then asked if there was any prior discussion with the applicant on this issue. Mr. Martin said that, after the report was finalized, the staff sent the applicant the EAMP report the morning of the meeting.

Representation – Matt Carter, Vision Engineering, was present on behalf of the applicant. For the record, he submitted the appropriate documentation for the posting of a sign on this property and the required affidavit. He said that he spoke to the applicant about the EAMP Report and they were agreeable to consolidate the two access points into one access. He then said that they would prefer to keep the access point to the west and remove the eastern - most access point. He added that they are in agreement with the staff's recommendations for both the final record plat and the development plan, and requested approval. Mr. Carter indicated that in speaking to Dr. Poole, who is the adjoining neighbor, the applicant does intend to carry over the conditions, from the previous final record plat, concerning the landscape screening required to the rear of the property.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. Dr. Barbara Poole, 2300 Newtown Pike, was present. She said that, in speaking with Mr. Carter, he indicated that the berm at the rear of the subject property will not be removed. However, that berm does not extend to the corner of her property and she wanted assurance that there will be a solid visual barrier between the two properties. She said that they were told that the applicant would build a fence, but they went ahead and installed that on her property. She then said that they don't believe a second fence should be added, but with her veterinary practice, there needs to be a solid visual barrier to prevent humans and horses interacting together or creating confusion for the horses.

Dr. Poole said that she was not anticipating the applicant developing the land on the rear portion of the property. She then said that, at some point, the berm will need to extend further down toward Newtown Pike to provide a visual barrier for the horses.

Planning Commission Questions – The Chair asked Dr. Poole to illustrate the location where the visual barrier ends. Ms. Poole directed the Commission's attention to the development plan rendering, and indicated the area where the berm ends half way along the northern property line.

The Chair referenced the landscape/screening noted on the previous final record plat, and asked Dr. Poole if she was agreeable with those notes. Dr. Poole said that she spoke to the applicant about the type of berm needed, and he indicated that he was agreeable to construct a solid berm to screen her farm from his property. The Chair confirmed that Dr. Poole wishes the berm to be continued to the edge of the subject property. Ms. Poole said that the applicant needs to plant something that will provide a solid visual barrier.

The Chair asked Mr. Carter if the applicant was agreeable with Dr. Poole's request. Mr. Carter replied affirmatively, and said that the applicant has indicated that he will honor whatever agreement that was made with the prior final record plat approval. He then said that, as far as the development to the rear, the applicant may sell that piece to the adjoining properties.

The Chair asked that if the rear portion were to be subdivided, would that request need the Planning Commission's approval. Mr. Sallee indicated that any construction being proposed for the rear lot, including Lot 5B, would require an amended development plan to be submitted for Commission's approval. The Chair confirmed that any proposed development on the rear portion would require the Commission's approval. Mr. Carter said that the applicant had stated that they do not intent to develop the rear portion at this time, but they would like the option to sell that land to one of the adjoining property owners.

The Chair asked if Dr. Poole would be agreeable to an added condition stating that there is a mutual agreement regarding the landscape screening. Dr. Poole replied affirmatively.

The Chair asked for guidance regarding the additional condition to consolidate the two accesses and only using the western access as the main entry point. Mr. Sallee said that the EAMP report (Page 2, Item a) does list a condition to consolidate the two proposed access points into one access point. The Chair said that condition #9 also makes reference to the EAMP report.

The Chair then said that a condition needs to be added to address the landscape screening along the property line.

Action - A motion was made by Mr. Penn, seconded by Mr. Brewer, and carried 8-0 (Mundy, Richardson and Smith absent) to approve PLAN 2014-71F: PROVIDENCE PLACE, TRACT 3 (AMD), as recommended by the staff.

Action - A motion was made by Mr. Penn, seconded by Mr. Brewer, to approve DP 2014-80: PROVIDENCE PLACE, TRACT 3, LOTS 5A & 5B (AMD), as recommended by the staff, adding a condition #12 to read: "Screening will be consistent with the previous development plan".

Discussion of Motion – Ms. Plumlee asked if a condition should be added to reference the consolidation of the properties. The Chair said that the consolidation of the two accesses is covered under the EAMP Compliance Report and the development plan condition #9, referenced in that report.

The Motion was carried 8-0 (Mundy, Richardson and Smith absent).

- c. PLAN 2014-76F: DENTON FARM, UNIT 4-B, BLOCK F, LOTS 9-11 (AMD) (12/1/14)* - located at 3749 through 3757 Branham Park. (Council District 7) **(John Hill)**

Note: The purpose of this amendment is to subdivide three lots into four lots.

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Amend Final Development Plan to reflect new single family density prior to plan certification.
10. Complete adjacent property information.
11. Correct spelling in Land Surveyor's certification.
12. Correct site statistics.
13. Addition of exaction information to the approval of the Division of Planning.
14. Discuss buildable area on Lot 11.

* - Denotes date by which Commission must either approve or disapprove request.

15. Discuss lot development standards.

Staff Presentation – Ms. Gallt directed the Commission's attention to a rendering of Denton Farm, Unit 4-B, Block F, Lots 9-11. She explained that this is an amended final record plat for property located at 3749 through 3757 Branham Park. She noted that the staff had distributed an exhibit to the Commission for their review, gave a brief history of this area, and explained that the final record plat there were three lots that were created (PLAN 2005-209F: Denton Farms, Unit 4-B) in 2005.

Ms. Gallt said that the original purpose of this amendment was to subdivide three lots into four lots. She then said that, since the Subdivision Committee meeting, the applicant had submitted a revised final recorded plat that proposed two new lots, changing the boundaries on Lots 10 & 11. She noted that, concurrently, that applicant had filed a Consolidation Minor Subdivision Plat for two of the four lots originally proposed. Now all four lots are still being proposed, but on two plans - final record plat and a consolidation plat.

Ms. Gallt said that with the October 8th revision, the applicant had addressed several of the conditions previously identified by the Subdivision Committee. Based upon this new plan submission and the filing of the corollary Consolidation Minor Plat, the staff can now offer the Planning Commission a revised recommendation for their consideration. She said that the staff is still recommending approval, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Amend Final Development Plan to reflect new single family density prior to plan certification.
10. Complete adjacent property information.
11. Correct spelling in Land Surveyor's certification.
12. ~~Correct site statistics.~~ Complete the tree canopy note to the approval of the Urban Forester.
13. Addition of exaction information to the approval of the Division of Planning.
14. ~~Discuss buildable area on Lot 11~~ Revise purpose of amendment note to state: "The purpose of this amendment is to subdivide one lot into two lots."
15. ~~Discuss lot development standards~~ Recordation of minor consolidation plat prior to plan certification.

Ms. Gallt briefly explained that conditions #1 through #7 involve standard sign-off conditions from the different utility companies and the divisions of the LFUCG. The remaining conditions are "cleanup" items that are in the process of being addressed. She added that the Consolidation Minor Plat had been reviewed by the staff, but not yet recorded.

Representation – John Barlow, applicant was present for this amended final record plat request. He said that they are in agreement with the staff's revised recommendations and requested approval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 8-0 (Mundy, Richardson and Smith absent) to approve PLAN 2014-76F: DENTON FARM, UNIT 4-B, BLOCK F, LOTS 9-11 (AMD), as recommended by the staff.

- d. PLAN 2014-33F: ASHLAND PARK SUBDIVISION, UNIT 11, LOT 4 (12/8/14)* - located at 312 Clinton Road.
(Council District 5) **(Wes Witt)**

Note: The Planning Commission indefinitely postponed this item at their July 10, 2014. The purpose of this amendment is to subdivide one lot into two lots.

The Subdivision Committee Recommended: **Postponement**.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

* - Denotes date by which Commission must either approve or disapprove request.

7. Denote proposed driveway location on Lot 4B.
8. Discuss provisions of sanitary sewer service and necessary easement(s).

Note: The applicant has requested that this item be heard at the October 9th Planning Commission meeting.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the plan for Ashland Park Subdivision, Unit 11, Lot 4, located at 312 Clinton Road. He guided the Commission's attention to the location of the subject property and the nearby street system. He explained that the subject property is zoned Single Family Residential (R-1C) and the purpose of this amendment is to subdivide one lot into two lots at the corner intersection of Clinton Road and Hart Road. He then said that one lot will be over 13,000 square feet in size, and the other lot will be over 9,400 square feet. He directed the Commission to a staff exhibit and aerial photograph, and explained that the staff was concerned with whether or not this proposal could meet the required setbacks for the structures, as well as whether or not the circular driveway that is existing would extend onto both lots.

Mr. Martin said that the Technical Committee and staff had originally recommended postponement to the Subdivision Committee due to the applicant's inability to provide sanitary sewer service to the second lot. He said that there is a sanitary sewer line on Hart Road that can be accessed, if necessary. However, that would have required the applicant to furnish a manhole and an extension to connect the new lot directly with the sewer line. This route would have been very expensive to construct on behalf of the applicant. He then said that there is also a sanitary sewer line on Clinton Road, but this route would require a lateral to be extended through both lots in order to provide sanitary sewer to the second lot. He explained that this route would create a problem because there is not enough space for the necessary width for a standard sanitary sewer easement. He said that the applicant had to figure out how to appropriately sewer both lots and this was the reason behind the original recommendation of postponement.

Mr. Martin said that, since the Planning Commission indefinitely postponed this item at their July 10, 2014, meeting, the applicant has since spoken with the Division(s) of Engineering and Water Quality. It was decided that since the lateral is connected to the existing sewer line system under Hart Road, the second lot can be connected by tying into the existing lateral line on the primary lot.

Mr. Martin said that the Subdivision Committee was also concerned with the lotting pattern not meeting the historical lotting pattern for the existing area. He then said that this lot is zoned R-1C and each lot will exceed the square footage and lot frontage requirements required for this zone. He directed the Commission's attention to the staff exhibit to illustrate the different lotting patterns within the general area, and said that the overall area does have uniformity, but in reviewing the corner lots throughout this neighborhood there is a considerable variation in their sizes.

Mr. Martin said that the staff is now satisfied that the sanitary sewer issue has been addressed, and is recommending approval of the applicant's request, subject to the conditions provided.

Planning Commission Questions – Mr. Berkley asked when was the lot at the corner of Culpepper Road and Hart Road subdivided. Mr. Martin said that the staff is unsure as to when lots were subdivided, but this area was originally developed in the 1950s. Mr. Berkley asked if the lot at the corner of Culpepper Road and Hart Road was more recently subdivided. Mr. Martin replied that he did not believe so. Mr. Berkley said that this lot is still vacant and he believes it is from the lot being subdivided. Mr. Martin said that some of these lots were probably subdivided prior to the adoption of the Land Subdivision Regulations. Mr. Sallee said that the corner lot at Hart and Culpepper was probably subdivided within the last 10 years. Mr. Berkley said that he is concerned because that lot was subdivided 10 years ago and it is still vacant. Mr. Sallee said that only one of those lots created there is still vacant.

Mr. Penn asked where access will be provided on the second lot. Mr. Martin said that he can not speak to the exact location of the sewer tie in, but as part of list of conditions, the applicant will need to demonstrate the driveway access. He then said that this condition came about because of the staffs concern with the building setback, the potential easement conflicts with the existing structure and retaining adequate yard on the lots.

Mr. Berkley asked what the rear setback will be. Mr. Martin said that the R-1C zone requires a minimum of 10 feet.

Representation – Richard Murphy, attorney, along with Andy Holmes, Midwest Engineering, liaison to surveyor Wes Witt, was present on behalf of their clients. He said that the purpose of this amendment is to subdivide one lot into two lots and construct one new single family detached house. He then said that this requests more than exceeds the zoning requirements for the R-1C zone and they have spoken with the Division(s) of Engineering and Water Quality, to resolve the issue with the sanitary sewer.

Directing the Commission's attention to a series of photographs, Mr. Murphy said that there was a discussion at the Subdivision Committee meeting about the general concept of this proposal. He said that the lot at the corner of Culpepper Road and Hart Road was subdivided about 8 years ago into three lots; and two of these lots have houses and the other is vacant.

Mr. Murphy gave a brief history of this subdivision proposed by his clients. He said that they wanted to build on the back portion of the lot so they decided to purchase the entire lot. He then said that they are remodeling and selling the existing house and will be building a new 2,400 sq. ft. house on the second lot that will "blend" in with the existing houses in the area. He added that the circular driveway will be removed and two separate driveways will be added for each of these lots. He said that this is an infill project and with that, development may occur on one lot or multiple lots. This project complies with what everyone is trying to do over the years and not expand out and it accounts for something. He said that this project also complies with all of the zoning requirements for the R-1C zone and subdivision plats are "ministerial" in nature, which means if the request meets all of the requirements of the Zoning Ordinance the law requires the Planning Commission to approve the request. He then said that this is no different than obtaining a building permit. If the building project meets the Building Code and local Ordinances then the building inspector is required to grant the permit, no matter if they believe it is right. Mr. Murphy said that this request meets the Land Subdivision Regulations and the Zoning Ordinance, and they respectfully request approval. He then said that they are in agreement with the staff's revised recommendations.

Planning Commission Question – Mr. Wilson asked if this is a ministerial action, then why is the Planning Commission hearing this case. Ms. Jones replied that the Land Subdivision Regulations require the Commission to hear the matter. Mr. Murphy said that the State statute states that the Planning Commission can delegate subdivision plats to a hearing officer. He then said that he is unaware of any county that does that, but since these are ministerial actions, these requests could be delegated. The Chair then recognized this to be a ministerial action, but he also believes that the Commission should look at what is best for neighborhoods as far as compatibility and they are charged with promoting, preserving and protecting, which can be done by the current means.

The Chair asked if the applicant can offer a guarantee as to what will be built. Mr. Murphy said that his clients have not hired an architect so there are no proposed plans on the table. He then said that they were not prepared to offer a guarantee because that is not done with subdivision plats. He added that the lot is within an expensive part of Lexington for real estate and what ever will be built here will be expensive. He indicated that the design of the house has not been set and his clients are only speculating what the design could be.

Ms. Plumlee asked if a condition should be added to address the removal of the circular driveway. Mr. Murphy said that they are agreeable to adding a condition for the driveway to be removed. He explained that the existing driveway will be reduced to one driveway and the new lot will have a separate driveway added.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 8-0 (Mundy, Richardson and Smith absent) to approve PLAN 2014-33F: ASHLAND PARK SUBDIVISION, UNIT 11, LOT 4, subject to the conditions listed on today's agenda, adding an additional condition:

9. Remove the circular driveway.

- C. PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Cravens, seconded by Ms. Plumlee, and carried 8-0 (Mundy, Richardson and Smith absent) to approve the release and call of bonds as detailed in the memorandum dated October 9, 2014, from Barry Brock, Division of Engineering.

D. DISCUSSION ITEMS (continued)

1. FINAL SUBDIVISION PLAN

- a. PLAN 2013-122F: SOUTHEND PARK, SECTION 1, UNIT 1 (12/31/14)* - located in the 700 & 800 blocks of De Roode Street. (Council District 3) **(Hall-Harmon Engineers)**

Note: The Planning Commission approved this plan at their November 14, 2013 meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: Lots 1-4 shall be developed in accordance with the approved Final Development Plan.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

* - Denotes date by which Commission must either approve or disapprove request.

10. Complete owners' certification information per the Land Subdivision Regulations.
11. Provided the Planning Commission grants a waiver to Articles 4-7(d)(1) and 4-7(d)(9) of the Land Subdivision Regulations.
12. Review by Technical Committee prior to plan certification.

The Commission also approved the requested waivers to the Land Subdivision Regulations, for these reasons:

1. Not granting the waivers would constitute an exceptional hardship for the applicant by impeding the development of the affordable housing component of the project.
2. Granting the waivers will not negatively impact public health and safety, as the completion of the public improvements will be completed; and warranties on the improvements will be provided by the standard contractual procedures utilized and required by the applicant.
3. Granting the waivers complies with 1-5(c) of the Land Subdivision Regulations that encourages waivers that facilitate infill and redevelopment projects.

Note: Section 1 of this plat (for lots 1-4) was recorded on March 17, 2014. The LFUCG Division of Engineering now requests an extension of the Commission's approval for the unrecorded Section 2 of this plat.

The Staff Recommends: Approval of a one-year extension, subject to the original conditions 1-7 & 9, noting the prior approval of the waiver by the Commission.

Staff Presentation – Mr. Martin directed the Commission's attention to Southend Park, Section 1, Unit 1, also known as the Newtown Pike Corridor Extension project, located in the 700 & 800 blocks of De Roode Street. He directed the Commission's attention to a rendering of this plat, to orient them to the location of the subject property and the nearby street system. He noted that the Planning Commission approved this plan at their November 14, 2013 meeting and now the LFUCG Division of Engineering along with the Kentucky Transportation Cabinet has requested a one-year extension for this plan. He indicated that the infrastructure is in place and a portion of the property has been recorded and transferred to the land trust, which allows affordable housing to be built at this site.

Mr. Martin said that since the State of Kentucky is overseeing this project certain waivers were required to ensure its progress. One of the waivers associated with this project was for the posting of a bond or surety that is required by the Land Subdivision Regulations. He explained that the State of Kentucky bids out certain phases of the project and the public infrastructure was one of them. He noted that this phase of the project is protected by the State's own procedures.

Mr. Martin said that the second waiver associated with this request is the engineer's certification. He explained that the State of Kentucky's is using Hall-Harmon as their consulting engineer for this project. However, Hall-Harmon did not design the infrastructure and cannot sign the certification, nor will the State of Kentucky's Transportation engineer. What evolved from this issue was a modified engineer's certification that was acceptable to all parties involved, resulting in Section 1 of the plan being signed and recorded.

Mr. Martin said that the staff is recommending approval of the one-year extension for Section 2, subject to the original conditions 1-7 & 9, as listed on today's agenda, noting the prior approval of the waiver by the Commission. He added that the project engineers for this project were present should the Commission have any questions or concerns.

Planning Commission Questions - The Chair asked if the one-year extension is for both the final record plat and the associated waivers. Mr. Martin replied affirmatively. The Chair then asked if this request was reviewed by the Technical Committee; and if so, could condition #12 be removed. Mr. Martin replied affirmatively. The Chair said that since there are three conditions listed as part of the waiver could condition #11 be removed. Mr. Martin said that this request for a one-year extension and with the Commission's action the waivers associated with this request would also be granted. He then said that even though a majority of the conditions has been met for Section 1 and the staff believes the list should remain for Section 2 (unrecorded).

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Berkley, seconded by Mr. Wilson, and carried 8-0 (Mundy, Richardson and Smith absent) to approve the one-year extension for PLAN 2013-122F: SOUTHEND PARK, SECTION 1, UNIT 1, as presented by the staff.

2. DEVELOPMENT PLANS

- a. DP 2014-79: STONEWALL SHOPPING CENTER (AMD) (12/1/14)* - located at 3101 Clays Mill Road.
(Council District 9) **(Vision Engineering)**

Note: The purpose of this amendment is to reconfigure parking, and vehicular and pedestrian circulation.

* - Denotes date by which Commission must either approve or disapprove request.

The Subdivision Committee Recommended: **Postponement**. There are questions regarding whether or not there is enough parking for the existing restaurant uses.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Addition of adjacent property information (subdivision name, cabinet and slide) per Art. 21 of the Zoning Ordinance.
11. Denote height of building in feet per Art. 21 of the Zoning Ordinance.
12. Addition of street frontage in site statistics per Art. 21 of the Zoning Ordinance.
13. Label outlots/buildings 1 and 2.
14. Dimension typical sidewalks and drive access points per Art. 21 of the Zoning Ordinance.
15. Verify restaurant, retail and office uses on plan.
16. Addition of note in reference to stormwater management to be in accordance with Engineering Manual, to the approval of the Division of Engineering.
17. Discuss building square footage (2-story area).

Staff Presentation – Ms. Gallt directed the Commission's attention to the rendering of the amended development plan for Stonewall Shopping Center, located at 3101 Clays Mill Road. She said that purpose of this amendment is to reconfigure parking, and vehicular and pedestrian circulation. She then said that when the applicant submitted this request there were initial questions regarding whether or not there was enough parking for the existing restaurant uses in this center. Therefore, the staff had recommended postponement of this request to the Subdivision Committee.

Ms. Gallt said that, since the Subdivision Committee meeting, the staff received a revised development plan (on October 8th), which has addressed several of the conditions previously identified by the Subdivision Committee, including the concern regarding whether or not there is enough parking for the existing restaurant uses. Based upon this new development plan submission, Ms. Gallt said the staff can now recommend approval, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Addition of adjacent property information (subdivision name, cabinet and slide) per Art. 21 of the Zoning Ordinance.
11. Denote height of building in feet per Art. 21 of the Zoning Ordinance.
12. Addition of street frontage in site statistics per Art. 21 of the Zoning Ordinance.
- ~~13. Label outlots/buildings 1 and 2.~~
13. 44. Dimension typical sidewalks and drive access points per Art. 21 of the Zoning Ordinance.
- ~~15. Verify restaurant, retail and office uses on plan.~~
- ~~16. Addition of note in reference to stormwater management to be in accordance with Engineering Manual, to the approval of the Division of Engineering.~~
- ~~17. Discuss building square footage (2-story area).~~
14. Correct space totals in the site statistics.

Ms. Gallt briefly explained that conditions #1 through #9 involve standard sign-off conditions from the different utilities and divisions of the LFUCG; and the remaining conditions are "cleanup" items that will need to be addressed prior to the plan being certified.

Representation – Matt Carter, Vision Engineering, was present on behalf of the applicant. He said that they are in agreement with the staff's revised recommendations and requested approval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Berkley, seconded by Ms. Plumlee, and carried 8-0 (Mundy, Richardson and Smith absent) to approve DP 2014-79: STONEWALL SHOPPING CENTER (AMD), as presented by the staff.

VI. COMMISSION ITEMS – The Chair will announce that any item a Commission member would like to present will be heard at this time.

A. TIF REPORT - STATEMENT OF COMPLIANCE WITH COMPREHENSIVE PLAN – Proposed Midland Avenue Redevelopment Area conceptual development plan for a portion of Midland Avenue, E. Third Street, Corral Street, E. Second Street, Race Street, Main Street and Vine Street.

Staff Presentation - Ms. Rackers stated that this next agenda item involves a request for a Tax Increment Financing project for the proposed Midland Avenue Redevelopment Area. It accompanies a conceptual development plan for a portion of Midland Avenue, E. Third Street, Corral Street, E. Second Street, Race Street, Main Street and Vine Street. She directed the Commission's attention to this plan on the overhead projector, and explained that the Urban Redevelopment Group, the developer of this TIF District, is proposing to redevelop neglected properties along Midland Avenue, E. Third Street, Corral Street, E. Second Street, Race Street, Main Street and Vine Street. She said that many of these properties, as well as infrastructure, have deteriorated over the years and are in great need of redevelopment. She then said that the applicant plans to reconstruct the area by providing a mixed-use development to include residential, retail and office uses. She added that the applicant will be placing the utilities underground, and will make improvements to the right-of-way and greenspace areas. The proposed redevelopment will generally coincide with the recommendations of the East End Small Area Plan, which was adopted by the Planning Commission in 2009 as an element of the 2007 Comprehensive Plan and was incorporated into the 2013 Comprehensive Plan.

Ms. Rackers said that state statute requires the Planning Commission to review a TIF application and certify its compliance with the Comprehensive Plan. The application is then forwarded to the Urban County Council, who will hold a public hearing (for this application on October 23rd) to further review the application. The Council will then forward the application to the State Economic Development Cabinet; and, if approved, the Commonwealth of Kentucky and the LFUCG will then enter into a formal agreement and implement the TIF District.

Ms. Rackers said that in order for a TIF application to be approved, the project must have a net positive economic and fiscal impact to the Commonwealth; the TIF Footprint cannot include any one retail establishment that exceeds 20,000 square feet of finished square footage; it must meet the required minimum capital investment of \$20,000,000; the development area must be less than the maximum 3 square miles; it must include at least two of the following: retail, residential, office, restaurant or hospitality; and it must either be located in an area with blighted conditions and inadequate public infrastructure, or be a mixed-use development that includes either (or both) significant public storm water and sanitary sewer facilities designed to comply with a community-wide court decree mandating corrective action by the local government or an agency thereof. She indicated that this TIF District does meet those requirements and it could theoretically provide "live where you work" space for anyone who might wish to take advantage of that opportunity, a concept that is endorsed by the Comprehensive Plan.

Ms. Rackers directed the Commission's attention to the overall area, and explained that the East End Small Area Plan area encompasses approximately 387 acres of land. The proposed TIF Development Area is only a small fraction (31.74 acres) of the study area. She then said that the proposed TIF Development Area has irregular boundaries. According to information provided with this application, the boundary was created as the result of the baseline calculation for net new revenue that is used with any TIF application. She explained that if properties were not blighted, meaning properties that are either undeveloped or underdeveloped, it would affect the revenue calculation and possibly impact the entire application for this TIF District.

Ms. Rackers said that there are both eligible and non-eligible improvements that are considered with this type of application, and those are as follows:

PROPOSED DISTRICT - ELIGIBLE IMPROVEMENTS

The proposed projects that are eligible for funding through the TIF Development Area are:

- Storm Sewer Improvements (repairs and construction, as well as provision for storm water management and detention)
- Utility Burial
- Public Parking
- Site Preparation and Demolition (clearing, demolition & disposal, grading and site preparation)
- Streetscape Improvements and Landscaping

PROPOSED DISTRICT – NON-ELIGIBLE IMPROVEMENTS

Private development/improvements are to include:

- Residential Dwelling Units (anticipated to be 190,000 square feet)
- Office Space (anticipated to be 70,000 square feet)

* - Denotes date by which Commission must either approve or disapprove request.

- Leasable Mixed Use Space (anticipated to be 67,000 square feet)
- Financing Costs
- Miscellaneous Costs not recoverable by TIF Funding

Ms. Rackers said that the East End has been discussed in the Comprehensive Plans since 1931; and as part of those discussions, recommendations were included regarding the types of improvements that are proposed as part of this TIF Development Area. She then said that in 1983, the East End Neighborhood Development Plan, which was developed by the LFUCG Department of Community Development, was adopted as an element of the 1980 Comprehensive Plan. Four main goals were developed, as well as accompanying objectives: 1) Preserve and strengthen the residential areas of the East End in order to provide decent housing opportunities for all who reside there; 2) Improve public facilities/amenities in the East End Neighborhood; 3) Transportation improvements should benefit East End residents; and 4) Improve the character of commercial areas within the East End.

Ms. Rackers explained that there are several goals, objectives and action plans listed in the 2013 Comprehensive Plan and the East End Small Area Plan that support the creation of this TIF District. In addition to these goals, objectives and action plans, the text of the East End Small Area Plan also provides support for the proposed TIF Redevelopment Area. She noted that page 61 contains a recommendation for East Third Street to develop as a mixed-use corridor; the land use map on page 62 shows mixed use and multi-family housing along Midland Avenue; pages 73-75 set out recommended infrastructure improvements to Third Street, Shropshire Avenue and other intersections included in the proposed TIF District; page 83 lists the improvements to East Third Street as a high priority; and pages 86 and 88 recognize that the cost of the needed public improvements is so great that various funding sources (including TIF) should be considered for redevelopment of the East End. She said that the Comprehensive Plan notes that TIF funding is one means to spur the revitalization of areas that have been recommended for redevelopment (such as the East End), thereby providing support for the creation of the Midland Avenue TIF District.

Ms. Rackers then said that much of what is being proposed for this area is considered infill, and both the 2007 and the 2013 Comprehensive Plans contain much discussion regarding infill projects. She added that this is the first TIF application under the 2013 Comprehensive Plan; and even though the Comprehensive Plan has been streamlined as far as the goals, objectives and text, it is reflective of what is contained in the 2007 Comprehensive Plan. Since the East End Small Area Plan is an element of both the 2007 and 2013 Comprehensive Plans, it is appropriate to include the 2007 Comprehensive Plan as part of this review. Ms. Rackers said that the Comprehensive Plan states that there is substantial literature on best practice methods for infill and redevelopment and densification, and it also states that the local challenges lie in addressing inadequate infrastructure, including storm and sanitary sewers, roads and open space, as well as the adequacy of public schools. Neighborhood residents and historic preservation officials have expressed concern about the design, use and density of new construction and the compatibility with existing conditions in developed areas. She then said that this, in itself, provides a significant level of support for creating this TIF District.

Ms. Rackers said that not only is the TIF area part of the East End Redevelopment Area, it is completely within the designated Downtown Master Plan Area. She then said that the Downtown Master Plan Area encompasses the downtown core, as well as several surrounding neighborhoods; and it contains recommendations for this area to be redeveloped with a mix of uses, including residential land use. This recommendation underscores the recommendations of the *East End Small Area Plan*, particularly for East Third Street and Midland Avenue. She said that it also underscores the positive aspects and the importance of the TIF District that would allow the redevelopment of this area.

Ms. Rackers said that the developer (applicant) has stated that their objective is to provide housing, retail/office space, green space and improvements to the right-of-way and utilities. The applicant's objective is in compliance with the Downtown Master Plan and the East End Small Area Plan. It supports both documents, and those documents support the applicant's proposal. She said that as part of its certification of compliance with the Comprehensive Plan, any recommendation(s) regarding re-zoning, text amendments or other changes needed to accommodate the proposed TIF Development Plan are to be included. She directed the Commission's attention to the overhead projector, and then said that the proposed development area contains six zoning categories within its 31+ acres; not all will accommodate the applicant's proposal. She explained that there is R-3 (Planned Neighborhood Residential); B-1 (Neighborhood Business); B-2 (Downtown Business); B-2A (Downtown Frame Business); B-4 (Wholesale and Warehouse Business) and I-1 (Light Industrial) zoning, and said that the B-2 and B-2A zoning will support mixed use. The B-1 zone will also allow office and retail and some residential uses; however, the residential can not be on the same floor as the office/retail uses. She added that the R-3 will accommodate the multi-family and conditional uses that can be granted by the Board of Adjustment. She noted that neither the B-4 nor the I-1 zone will allow the uses as proposed with this TIF Development Plan; therefore, the developer will need to apply for a zone change to one of the Mixed Use zones in the future for at least a portion of the area to allow a "mixed use" land use to comply with the recommendation of the Small Area Plan, as well as the Downtown Master Plan. The developer is fully aware of this process. Ms. Rackers said that, when the developer does apply for a zone change, it is important that what they request allow for and correspond with the recommendations of the Small Area Plan. She said that, with the exception of a small section of the TIF project, most of the redevelopment for this applicant is in the future; it is only conceptual and could potentially change.

Ms. Rackers directed Commission's attention to a rendering of the proposed TIF project, and explained the location of the proposed uses. She said that the square footages and the specifics locations of these uses could change, but it is important to reflect what is recommended in the Small Area Plan. The zone change and development plan process will allow input from the local residents and local stakeholders regarding the design and layout of the proposed uses. She said that this is important

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because the small area plan was a neighborhood collaborative effort, and the developer needs to be mindful of that since it was based upon the goals and objective that were specific to this area.

Ms. Rackers said that there is not a vision statement in the 2013 Comprehensive Plan, but as it was noted in the 2007 Comprehensive Plan, the Vision for Lexington-Fayette County states that the built areas of Lexington "are a collection of diverse neighborhoods, each of which has an individual identity and, together, form the building blocks of community throughout both the urban and rural areas." She then said that although it is not directly stated in the 2013 Comprehensive Plan there was discussion concerning the growth of a successful neighborhood. Ms. Rackers said that the creation of the TIF Development Area and the implementation of the proposed redevelopment project fit the 2007 vision and will help to implement the cited goals and objectives of the 2013 Comprehensive Plan and the East End Small Area Plan. She then said that it will also comply with the Consent Decree requirements regarding stormwater and infrastructure improvements.

Ms. Rackers said that Ms. Westover, attorney, along with Mr. Holoubek, a local developer, were present should the Commission have any questions or concerns.

Planning Commission Questions - Mr. Penn asked for clarification on the \$20,000,000 investment and who would be funding this amount. Ms. Westover explained that this project will be more than \$20,000,000; that amount is the threshold in order for a project to qualify as a TIF District. She said that there will be significant private investments within the development areas, and those projects will generate the revenues that will be used for the TIF. She then said that the private investment for this project is expected to be \$50,000,000 in addition to the \$17,000,000 for the public infrastructure for the entire development area.

Mr. Penn asked if the TIF will be used for the infrastructure. Ms. Westover said that the only thing that the TIF funds can be used for is the public infrastructure, which includes roadways, sidewalks, curb, gutter, stormwater and so forth. She then said that the TIF funds can not be used on the actual buildable structures.

Mr. Penn then asked if the TIF is a tax credit. Ms. Westover said that she is unfamiliar with the TIF financing, but there are a couple of ways as to how a TIF can work. If the applicant goes through the process, and their proposal is approved by the State and local government, then a portion or an increment of the taxes that are collectable within the project's footprint go into the TIF fund. She noted that Mr. Casey Bolton, Commonwealth Economics, was present to discuss the financing portion of this project.

Mr. Penn said that the whole purpose of this conversation is to learn about the TIF process, and he wants to know where the actual money comes from to install the infrastructure in the ground. He asked if the State will guarantee the bonds. Mr. Bolton said that the moneys used for TIF projects can come from a variety of areas, for example, government bonds, private debit or even equity, or through other bonds that are supported solely by the TIF revenues that are not backed by the government.

Mr. Penn asked where the financing will come from for the infrastructure. Mr. Bolton said that, depending on which project, there will be a variety of sources blended together to acquire the funds for the infrastructure. He then said that for a portion of this project, there will be the parking garage that may be backed by the Parking Authority, who can recover the TIF money to reimburse themselves of that expense, which would be part local and part state funds. He added that the infrastructure must be built before the funds are generated, because taxes generated would come through the development that is built on the property.

Mr. Penn asked if this is where the private investment would come into play. Mr. Bolton replied affirmatively. Mr. Penn said that he does not know about TIF, and he is only trying to learn with this project. Mr. Bolton indicated that, in the past, the funds do not necessarily come from the city, a lot of times the funds come from a private developer. Mr. Penn said that the developer is betting on a return for his money through the TIF funds. Mr. Bolton said that the TIF funds allow the financing on the project on the private end to be easily secured.

Mr. Wilson asked if there is a time frame as to how long the TIF funds last after the approvals are given. Ms. Westover said that a TIF has a 20-year life span.

The Chair said that the time recovery period for a TIF project is 20 years; and some of the funds will go towards public infrastructure or the stormwater sewer system. He asked if there is a time limit with the Consent Decree. Ms. Westover said that the timing requirements for the Consent Decree are not related to the time recovery for the TIF project. These are two separate matters and are not tied together.

The Chair asked, if the Consent Decree says that the system must be installed within 10 years, if that means that the developer will need to ensure that the TIF funds will pay for the Consent Decree. Ms. Westover said that that could be one method; but the Consent Decree is dictated from the courts to the LFUCG, stating what needs to be fixed and how the city will fix it within a certain time frame. These two are not tied together.

The Chair asked how the three noncontiguous lots on Third Street will come into play. Ms. Westover said that those lots are undeveloped and there are no structures on them. She then said that all these properties are connected by the right-of-way, and within this area there is a footprint for discreet private projects. She then said that the public infrastructure may need to be in the public right-of-way, and the reason this project is done this way is to allow improvement in any right-of-way that connects

it. For example, the Town Branch Trail is proposed to run along Midland Avenue, and the location of those improvements must be noted. She said that the three lots in question are connected by the public right-of-way and they are not noncontiguous lots.

Mr. Cravens said that the staff report indicates that a percentage of the future increases in taxes collected from revenues created on the TIF Footprint become the mechanism for paying for the improvements. He asked what taxes are collected. Ms. Westover briefly explained the type of tax that is generated if they receive state and local approval. Mr. Cravens said that the tenants of these buildings will still be paying taxes to the city and state, which turns around to pay the TIF. Ms. Westover said that the law allows up to 80 percent to be paid to the TIF fund, which pays for the development of this area.

Ms. Plumlee asked if a TIF project can fail. Ms. Westover said that a TIF project can fail if the proposed development never occurs, or if the cost projections are higher than anticipated. She said that TIF projects are successfully used in other areas in and out of Kentucky. She gave an example of a TIF project in northern Kentucky where they transformed a large portion of the downtown area.

Mr. Drake said that one of the primary causes for a failure to occur is the overestimation of the tax revenues. This happened to a certain degree with the YUM center in Louisville, KY. He said that the TIF District was redefined to increase the tax receipts so it serviced the debit. Mr. Penn asked if it was made bigger. Mr. Drake replied that it was enlarged geographically. Mr. John Farris, Commonwealth Economics, indicated that the area was not made bigger but was made smaller. Mr. Drake confirmed Mr. Farris' statement. Mr. Farris said that his firm wrote the 2006 TIF statute, which was later adopted in 2007, and said that that the YUM Center was approved under the previous statute. He gave a brief summation on the history of the downtown TIF District and said that the boundary of the TIF area was decreased in size, making it more efficient. He then said that the new statute only includes properties that are part of the project; and if the Louisville arena were to do this project over again, the boundaries would be a much smaller footprint for the TIF District. He indicated that the YUM Center with the old statute, and this application with the new statute, can not be compared; it is "apples and oranges." He said that, as to why TIF projects fail, there is sometimes an overestimation, especially if there are bonds involved. He then said that the LFUCG has not been involved and is not backing this project with bonds. If the project is successful, then it will use the tax revenues to pay for the public infrastructure; but in this case the developer is taking the risk, not the city or the taxpayers.

Mr. Drake asked if municipal bonds were used in the past to acquire cheaper financing. Mr. Farris explained that bonds can be used and backed by a municipality to receive a lower rate in financing, but there area also bonds that are not being backed by the municipality or a government entity. He then said that in the case where there is not a municipality or a government entity backing the project, it has been very difficult to issue tax exempt bonds - especially from 2007 through 2013 - just because of the displacement in the financial markets. Therefore, the developer of the project is taking all the risk in hopes that the funds will be paid back.

Mr. Penn asked, with regards to this TIF District, if the funds will come from private developers. Mr. Farris replied affirmatively. Mr. Penn then asked if the developer believes this can be done within the 20-year timeframe. Mr. Farris explained that the TIF will become obsolete when the public infrastructure is repaid, and the longest it can last is 20 years. He said that one would hope that a portion or all of the TIF would pay for the public infrastructure before the 20-year time frame. Mr. Penn said that the more TIF projects that are approved, the more questions are asked, and this has been an educational experience for him. Mr. Farris said that people want to know how successful this program is, but the statute has only been around since 2007, and over two dozen communities have embarked on it to include five TIF project in Lexington. He then said that each TIF project has varying degrees of success, but that is the same with most development projects. He added that a Tax Increment Financing is a mechanism, if the development is successful; repays the public infrastructure that the developer placed up front.

Mr. Penn said that it's fair to say to the Lexington community that this project is privately backed concerning the public infrastructure. Mr. Farris replied affirmatively.

Action - A motion was made by Mr. Brewer, seconded by Ms. Plumlee, and carried 8-0 (Mundy, Richardson and Smith absent) to certify that the Midland Avenue TIF Development Area is hereby certified as being in compliance with the adopted 2012 Comprehensive Plan.

VII. STAFF ITEMS

1. UPCOMING WORK SESSION – Mr. King reminded the Commission members of the upcoming work sessions scheduled for October 16 and 30, 2014.

VIII. AUDIENCE ITEMS – No such items were presented

IX. NEXT MEETING DATES

Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	October 29, 2014
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	October 23, 2014
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	November 6, 2014
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	November 6, 2014
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	November 13, 2014

X. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 3:27 PM.

Mike Owens, Chair

Will Berkley, Secretary